

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

ROBERT BLAKE,

Plaintiff,

v.

CIVIL ACTION NO. 2:11-cv-00137

MARY E. STANLEY,

Defendant.

MEMORANDUM OPINION AND ORDER

Before the Court is Plaintiff Robert Blake's complaint [Docket 3], in which he seeks to compel U.S. Magistrate Judge Mary E. Stanley to order the trustee clerk of Mount Olive Correctional Complex, where Blake is currently incarcerated, to return money to his commissary account after allegedly overcharging him for a universal television remote. On March 8, 2011, this action was referred to United States Magistrate Judge Cheryl A. Eifert for submission of proposed findings and a recommendation (PF&R). On May 6, 2011, Magistrate Judge Eifert denied Blake's Application to Proceed Without Prepayment of Fees because he has accrued in excess of three dismissals under the Prisoner Litigation Reform Act in the past and he failed to demonstrate imminent danger of serious physical injury in this case. (Docket 7.) In the same order, Magistrate Judge Eifert directed Blake to pay the full \$350 filing fee no later than June 6, 2011. On June 23, 2011, Magistrate Judge Eifert filed her PF&R [Docket 15] recommending that this Court dismiss Blake's complaint for failing to pay the filing fee. The case was prematurely appealed on August 31, 2011, and ultimately returned to this Court on January 17, 2012. (Docket 16, 21.)

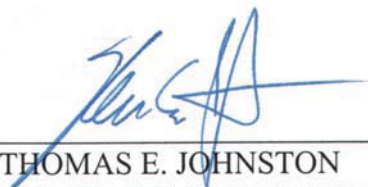
The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections to the PF&R in this case were due on July 11, 2011. To date, no objections have been filed.

Accordingly, the Court **ADOPTS** the PF&R [Docket 15], **DISMISSES** the complaint [Docket 3], and **DISMISSES** this case from the docket. A separate Judgment Order will enter this day implementing the rulings contained herein.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: April 6, 2012



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE